

R E M A R K S

This is in response to the final Official Action of April 16, 2002 for the above-identified application. A Notice of Appeal was filed on October 15, 2002. Claims 1-20 are pending in this application. Claim 1 has been amended as is further discussed below.

The specification has been amended to state that this application is a continuation of International Application No. PCT/AT98/00278, which was filed on November 12, 1998 and which published in German on May 20, 1999, and which in turn claims priority from Austrian patent application A 1916/97, filed on November 12, 1997. It is respectfully submitted that no new matter has been added.

**Claim Rejections under 35 U.S.C. § 103**

Claims 1-20 have been rejected under 35 U.S.C. § 103(a) as allegedly obvious over U.S. Patent No. 5,902,608 ('Read et al.') and U.S. Patent No. 5,589,462 ('Patat et al.') in view of U.S. Patent No. 5,618,663 ('Delmas'), and CA Abstract AN 1996:313895, 1996 ('Dimoudis et al.'). The Examiner states that Claims 1-20 are obvious for the reasons given in the previous Official Action. The Examiner further alleges that Read et al. discloses thrombocytes which read on the "thrombocytes or thrombocyte fragments" of Claim 1 (Official Action, paragraph 3); that Patat discloses adding thrombin to a platelet composition and thrombin coagulable proteins (Official Action, paragraph 1); and that Delmas discloses that collagen and thrombin are well known physiological activators (Official Action, paragraph 1). According to the Examiner, it

would have been obvious to make a composition comprising platelet, thrombin coagulable protein, and thrombin to obtain the present invention (Official Action, page 3, lines 1-4).

However, it is respectfully submitted that Claims 1-20 are not obvious over Read et al. and Patat et al. in view of Delmas and Dimoudis et al. Claim 1 has been amended to expressly recite that the thrombocytes or thrombocyte fragments have been prepared by lyophilization "in the absence of a cryoprotective amount of albumin" or freezing "in the absence of a cryoprotective amount of albumin." It is respectfully submitted that the amendment is supported by the examples in the application as originally filed, none of which discloses adding a cryoprotective amount of albumin in the lyophilization or freezing step, and therefore does not constitute new matter. In contrast, Read et al. does not disclose or suggest that lyophilization or freezing are performed in the absence of a cryoprotective amount of albumin. In fact, Read et al. expressly states that albumin is used (*see, e.g.*, col. 3, lines 14-17), and that the platelet yield fails when albumin is not used (Col. 6, lines 12-14). Patat et al. likewise discloses the use of albumin at Col. 3, line 22 and in Table 2. Similarly, Delmas and Dimoudis et al. do not disclose or suggest that lyophilization or freezing are performed in the absence of a cryoprotective amount of albumin and therefore do not cure the deficiencies of Read et al. or Patat et al. With regard to Claim 10, none of the cited references discloses or suggests that the composition is capable of releasing the growth factors over an extended period of time, and none of the cited references discloses or suggests applying to the

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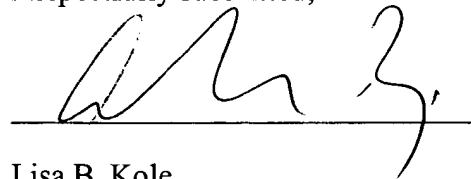
wound a thrombocyte activating stimulus selected from the group consisting of collagen, thrombin, trypsin, ADP, serotonin and adrenalin. Accordingly, it is respectfully submitted that Claims 1 and 10 (and Claims 2-8 and 11-20 ultimately dependent on Claim 1) are not obvious over Read et al. and Patat et al. in view of Delmas and Dimoudis et al.

In view of the foregoing, withdrawal of the rejection of Claims 1-20 as obvious over Read et al. and Patat et al. in view of Delmas and Dimoudis et al. is respectfully requested.

Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached page is captioned **"Version with markings to show changes made."**

In view of the foregoing, reconsideration and allowance of all claims in the application is respectfully requested.

Respectfully submitted,



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**VERSION WITH MARKINGS TO SHOW CHANGES MADE****In the Specification:**

The following paragraph has been inserted on page 1 after the title:

**CROSS-REFERENCE TO RELATED APPLICATIONS**

This application is a continuation of International Application No. PCT/AT98/00278, which was filed on November 12, 1998 and which published in German on May 20, 1999, and which in turn claims priority from Austrian patent application A 1916/97, filed on November 12, 1997.

**In the Claims:**

Claim 1 has been amended as follows:

1. (Amended Three Times) A medicinal product for topical use for the promotion of wound healing, which comprises (a) thrombocytes or thrombocyte fragments, wherein said thrombocytes or thrombocyte fragments (i) contain growth factors and are capable of releasing the same over an extended period of time, (ii) have been prepared by a method selected from the group consisting of lyophilization in the absence of a cryoprotective amount of albumin and freezing in the absence of a cryoprotective amount of albumin; and (iii) have been subjected to a process selected from the group consisting of consisting of virus partitioning and virus inactivation; and (b) a thrombocyte activating stimulus selected from the group consisting of collagen, thrombin, trypsin, ADP, serotonin and adrenalin.